

NO. (45600-1-II)

(COURT OF APPEALS, DIVISION TWO)
OF THE STATE OF WASHINGTON

Diane Matheny, Appellant Petitioner,

v.

Robert Levesque,

&

Respondent

Priscilla Levesque,

BRIEF OF APPELLANT

PRO-SE ATTORNEY FOR APPELLANT

DIANE C. MATHENY

P. O. BOX 11374

OLYMPIA, WA. 98508

(360) 753-5464

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TABLE OF AUTHORITIES.

Table of cases.

A. FEDERAL CASES:

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Constitution of the United States of America.

Amendment/Article 5, Article 14, (1789) (1868).

B. All Washington State cases.

1. Superior Court of the State of Washington.

In and for the County of Thurston. Real Property Judgement.

Plaintiff Levesque vs. Matheny. Dated: August 23, 2013

Case # 13-2-00619-4

2. Washington State Court of Appeals. District II.

Appellant Diane C. Matheny vs. Robert Levesque, et-al, Respondant.

Case# 45600-1-II

3. Washington State Court of Appeals

Case: Edwards v. Powell

Date 2011. Book 144. Page 103.

Washington State Appellate Reports.

4. Washington State Superior Court.

Case. Goettmoeller v. Twist.

Date 2011. Book 101. Page 103.

Washington Appellate Reports.

B. STATUTES.

1. CR 5.

2. CR 5 (a).

3. CR 5. (g).

4. RCW 4.28.080

5. RCW 7.28.120

6. RCW 11.96.(A). 110

7. RCW 19.40.061. (1), (i), (3), (4)

8. RCW 26. 50. 030

2.

A. ASSIGNMENTS OF ERROR.

1. The court erred by entering the Order that gave the Plaintiff's permission to serve Defendant by regular mail when presented with "Plaintiff's Order to Show Cause" – "Plaintiff's Motion and Order for Service by Mail". CR 5. (a). Dated October 18, 2013.

Page 19, lines 9 – 23. of Verbatim Report of Proceedings.

2. The Court erred by not requesting that Plaintiff's serve Defendant with "Certified or Registered Mail" as required in CR 5. (g). Dated October 10, 2013.

Page 19, line 9 – 23. of Verbatim Report of Proceedings.

3. The trial court erred in entering the Summary Judgement and Order on August 23, 2013., without Defendant in attendance or valid "Proof of Service" by Plaintiff's as to Defendant being legally served proper notice of trial in accordance with CR 5 (a) and CR 5 (g). No proof of service is in court file. (RCW 7.28.120)

Page 19, lines 20 – 23. of Verbatim Report of proceedings.

4. The court erred by allowing a Quiet Title action against a vested owner of

deed, whereas Quiet Title is reserved for Bona fided purchases of property where an unidentified heir or like, becomes revealed. Plaintiff's/ Respondant's are not Bona fided purchasers for the reason Appellant's name is clearly on the preceeding deeds, tax assessments, mortgage, etc.

Page 19, lines 20 – 23. of Verbatim report of Proceedings.

5. The court erred whereas Plaintiff's/Respondants are required (RCW 7.28.120) the plaintiff in such action shall set forth in his complaint the nature of his estate, claim or title to the property, and the defendant may set up a legal or equitable defence to plaintiff's claims, and the superior shall prevail. Plaintiff does not have a legal deed to present, nor any deed of ownership, therefore cannot maintain an action of quiet title.

6. Court continually fails to establish ownership of property in question.

7. The court erred in not enforcing the United States Bill of Rights in it's totality, 5th Article, 14th Article.

5th. The Constitution of the United States protects those rights of citizens and land owners, unless by Deed or Due Process of Law.

14th. Amendment abridged the "privileges and immunities" of citizens: to deprive

any person of life, liberty, or property, without “due process of law” or deny any person, “the equal protection of the laws”.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Does the court have a legal right to give away someone’s real or personal property without any notification to the owner of said property? RCW 7.28.120

Assignments of Error #’s 1, 2, 3, 4, & 5.

Page 19, lines 20 – 23. of Verbatim Report of Proceeding’s.

2. Does the court have the legal right to grant an “Order” to a “Motion” when the evidence in said Motion presented to Court suggests that Defendant will probably “NOT” receive this Service of Document’s in the same manner that Plaintiff is presenting as all attempts in the past have failed to be served?

CR 5. RCW 7.28.120. Assignments of Error #’s 1, 2, & 3.

Page 19., lines 20 – 23. of Verbatim report of Proceedings.

3. Why would the court grant a Motion that so blatantly all but guarantees that Defendant will “NOT” be served and subsequently unlawfully loose

her real and personal property? Does the court have the right to just take possession of and then give away anyone's property with no evidence or permission from Legal Property owner?

Assignments of Error #'s 1, 2, & 3.

Page 19, lines 20 – 23. of Verbatim Report of Proceedings.

C. STATEMENT OF THE CASE

1. This case and issues presented, concern the fraudulent transfer of deeds, a Summary Judgement, all based on the principle-underlying issues of those actions. A foundation of fraud and Judicial misconduct. RCW 19.40.061 (1), (i), (3), (4).

Page 19. Lines 20 – 23. of Verbatim Report of Proceedings.

2. Appellant was never served with any "Notice to Appear" for Judgement Hearing dated August 23, 2013. This fact is clearly governed by Washington State Laws included in RCW 11. 96A. 110., CR 5. (a).

Page 27, lines 12 – 17. of Verbatim Report of Proceedings.

This issue closely resembles “Goettmoeller v. Twist”.

Washington State Appellate Reports. Book 101. Page 103. Year 2011.

Service of a Summons at a private mail box is not sufficient to effectuate substitute service under RCW 4. 28. 080. (16)., when that mailbox address at which service was attempted was no valid substitute service, accordingly, we reverse the trial court and remand for dismissal for “Improper Service”. CR 5. (a).

RCW 4. 28. 080 Summons; How Served.

3. Two attempts of service were done in illegal manner. CR 5 (g).

This issue closely resembles the situation in Edwards v. Powell.

Washington State Appellate Reports, Book 144. Page 109. Year 2007.

Process service, Personal Service, Personal Service delivery by erroneously served person. A person who is erroneously served with a summons and complaint by a process server can effect service on the named Defendant by personally delivering the summons and complaint named Defendant, or by leaving the summons and complaint at the Defendant’s house of usual abode with a person of suitable age and discretion who lives herein at time of service if the person is

more than 18 year's old is competent to be a witness and is not a party to the action.

RCW 26. 50. 030

D. SUMMARY OF ARGUMENT

Appellant Diane C. Matheny was never given any legal notice of any impending Superior Court Case that involved her. CR 5.

Verbatim Report of Proceedings: Page 18. lines 12 – 25 .Page 19. lines 1 – 23.

Appellant was denied her Constitutional Right's provided by the United States Constitution. (Bill of Rights).

Plaintiff's and their attorney J. Zittel did knowingly falsify service of court documents to Defendant- Appellant Diane C. Matheny CR 5.

Appellant was illegally served and illegally attempt at service by Plaintiff's and their attorney J. Zittel. CR 5. (g).

E. ARGUMENT

“I” is referenced to myself, Diane C. Matheny, Appellant.

Plaintiff and Plaintiff’s attorney did illegally and with forthought make sure that “I” Defendant, had no knowledge of the Superior Court proceedings for this property dispute to be heard on August 23, 2013.

Thurston County Superior Court. CR 5.

Page 18. Line 12 – 25. Page 19. Line 1 – 23. of Verbatim Report of Proceedings.

STATUTES: Pertaining to Argument.

1. CR 5.
2. CR 5 (a).
3. CR 5 (g).
4. RCW 4.28.080.(16)
5. RCW 7.28.120
6. RCW 11.96.(A). 110

7. RCW 19.40.061. (1), (I), (3), (4)
8. RCW 26. 50. 030
9. United State Constitution (Bill of Rights).

CONCLUSION

For the reasons set forth above the Appellant respectfully requests that the Appellate Court reverse the Superior Court's ruling in this matter and return Appellant's legal ownership ownership of said property. Appellant is a citizen of this United States, and has full rights to be protected by the Constitution of Law, Bill of Rights, Courts, States, to abide within the Laws of the United States of America.

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re:

No. 45600-1-II

DIANE C. MATHENY

Declaration of Appellant.

Appellant

VS.

ROBERT LEVESQUE

&

Respondant

PRISCILLA LEVESQUE

FILED
2014 JUL 21 AM 9:23
COURT OF APPEALS
DIVISION II
JENNY

I, Diane C. Matheny, declare that I am at least 18 year's of age and am Appellant

In this case.

My signature below is my verification of this brief. RAP 18.7., APR 13(a).

I certify (declare) under penalty of purgury under the laws of the state of
Washington that the forgoing is true and correct.

11.

Signed in Olympia, Washington, County of Thurston on July 18 , 2014.

A handwritten signature in black ink, appearing to read "Diane C. Matheny", written over a horizontal line.

DIANE C. MATHENY

PROCEEDINGS

1. 03/21/2013 Case information cover sheet.
2. 03/21/2013 Complaint.
3. 03/21/2013 Affidavit in support by P. Levesque
4. 03/21/2013 Ex-parte action with Order summons.
5. 07/16/2013 Motion for Summary Judgement.
6. 07/16/2013 Affidavit in support of R. Levesque.
7. 07/29/2013 Motion for Default.
8. 08/08/2013 Affidavit/declaration of service.
9. 08/08/2012 Notice of issue. Action summary.
08/23/2013 Judgement/Dismissal Secondary
09/08/2013
10. 08/23/2013 Summary Judgement hearing.
Judge Christine Schaller.
11. 08/23/2013 Order granting Summary Judgement.
CC. Pittman. CR. Schackell.
12. 08/23/2013 Notice of issue. Secondary 09/08/2013
Action Summary Judgement.
13. 08/23/2013 Declaration Diane Matheny.

14. 09/06/2013 Notice of issue. Action Summary/Judgement

Dismissal.

15. 09/06/2013 Declaration. Diane Matheny.

16. 09/06/2013 Proposed Order/findings.

17. 09/06/2013 Writ of Restitution.

18. 09/10/2013 Motion Stay of Execution of Writ.

19. 09/20/2013 Order denying Motiom/petition.

20. 09/23/2013 Request for Discovery.

21. 09/23/2013 Notice of Defendant.

22. 09/24/2013 Order. Action Challenge to stay Writ.

Secondary 11/01/2013.

23. 09/24/2013 Ex-parte Action with Order.

24. 10/18/2013 Notice of Issue. Secondary 11/01/2013

Action. Presentation of Judgement.

25. Declaration of J. Zittel

26. 10/18/2013 Response.

27. 11/01/2013 Motion hearing. Judge Christine Schaller.

CC. Pittman. CR. Schackell.

28. 11/01/2013 Judgement.

29. 11/19/2013 Ex-parte Action with Order

30. 12/16/2013 Motion for stay.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

ROBERT LEVESQUE and)	
PRISCILLA LEVESQUE,)	COURT OF APPEALS
)	NO.45600-1-II
Plaintiff,)	
)	THURSTON COUNTY
vs.)	NO. 13-2-00619-4
)	
DIANE C. MATHENY and HEIDI)	
LEE ASHLEY,)	
)	
Defendant.)	
)	

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that on August 23, 2013,
the above-entitled matter came on for hearing before the
HONORABLE CHRISTINE SCHALLER, Judge of Thurston County
Superior Court.

Reported by: Aurora Shackell, RMR CRR
Official Court Reporter, CCR# 2439
2000 Lakeridge Drive SW, Bldg No. 2
Olympia, WA 98502
(360) 786-5570
shackea@co.thurston.wa.us

APPEARANCES

For the Plaintiff: JASON ZITTEL
Jay A. Goldstein Law Office PLLC
1800 Cooper Point Rd SW Ste 8
Olympia, WA 98502-1179

For the Defendant:

1 THE COURT: Number 21, Levesque versus
2 Matheny. This matter comes before the Court on
3 plaintiff's motion for summary judgment. Is it
4 Mr. Zittel?

5 MR. ZITTEL: Yes, Your Honor.

6 THE COURT: Mr. Zittel is present on behalf of
7 the plaintiff, and, of course, I reviewed the motion
8 for summary judgment. No response was filed. The
9 defendants have not appeared, and it is 9:15. I
10 normally wait 15 minutes to give them an opportunity
11 to appear. Go ahead.

12 MR. ZITTEL: Okay. Your Honor, I just want to
13 point out something regarding service on this. I
14 don't know if their answer got into the file, if they
15 filed it. I did receive a very pro se-style answer
16 that came in a manila envelope with the return
17 address that her property is located at. There is a
18 motion that we actually had when she was dodging
19 service originally, and there was a motion for
20 service by mail. That was done and granted, but we
21 did end up with personal service on her eventually
22 anyway.

23 And I just want to point out that the answer we
24 got had a return address on the manila envelope, and
25 that's where we then serviced by mail for this motion

1 for summary judgment to her. I don't know whether
2 this answer made it into the file or not.

3 THE COURT: Are you talking about an answer to
4 the motion for summary judgment?

5 MR. ZITTEL: No, just the regular answer to
6 the complaint.

7 THE COURT: No, there has been nothing placed
8 in the file by any of the defendants.

9 MR. ZITTEL: I wanted you to know that that's
10 what I used for the basis for the service of the
11 mailing to her for this motion in particular.

12 THE COURT: To give her notice.

13 MR. ZITTEL: To give her notice of this
14 motion.

15 THE COURT: You gave her what you have --

16 MR. ZITTEL: What I have, yeah. She gave a
17 manila envelope with the return address on it with a
18 pro se -- I mean, it's just a bunch of documents
19 answered --

20 THE COURT: I find that there has been
21 appropriate notice of the hearing, that no response
22 has been filed to this motion, and I will grant the
23 motion for summary judgment.

24 MR. ZITTEL: May I approach, Your Honor?

25 THE COURT: Yes. And I appreciate you

clarifying that for the record.

--o0o--

20.

CERTIFICATE OF REPORTER

STATE OF WASHINGTON)

COUNTY OF THURSTON)

I, AURORA J. SHACKELL, CCR, Official
Reporter of the Superior Court of the State of
Washington, in and for the County of Thurston, do hereby
certify:

I was authorized to and did stenographically
report the foregoing proceedings held in the
above-entitled matter, as designated by Counsel to be
included in the transcript, and that the transcript is a
true and complete record of my stenographic notes.

Dated this the _____ day of March, 2014.

AURORA J. SHACKELL, RMR CRR
Official Court Reporter
CCR No. 2439

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

ROBERT LEVESQUE and)	
PRISCILLA LEVESQUE,)	COURT OF APPEALS
)	NO.45600-1-II
Plaintiff,)	
)	THURSTON COUNTY
vs.)	NO. 13-2-00619-4
)	
DIANE C. MATHENY and HEIDI)	
LEE ASHLEY,)	
)	
Defendant.)	
)	

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that on November 1, 2013,
the above-entitled matter came on for hearing before the
HONORABLE CHRISTINE SCHALLER, Judge of Thurston County
Superior Court.

Reported by: Aurora Shackell, RMR CRR
Official Court Reporter, CCR# 2439
2000 Lakeridge Drive SW, Bldg No. 2
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APPEARANCES

For the Plaintiff: JASON ZITTEL
Jay A. Goldstein Law Office PLLC
1800 Cooper Point Rd SW Ste 8
Olympia, WA 98502-1179

For the Defendant: DIANE MATHENY
HEIDI LEE ASHLEY
(Appearing Pro Se)
P.O. Box 11374
Olympia, WA 98508

1 THE COURT: Number 23, Levesque versus
2 Matheny. This matter comes before the Court on the
3 defendant's motion requesting that the Court stay the
4 writ of execution. The defendant had previously
5 filed a notice of issue for summary judgment but
6 never filed a summary judgment motion, and then the
7 plaintiff has filed a notice of issue requesting that
8 a judgment be entered on this date consistent with
9 the order for summary judgment previously entered in
10 this matter.

11 Mr. Zittel is present on behalf of the plaintiff.
12 And you are Ms. Matheny; is that correct?

13 MS. MATHENY: Yes, and this is Heidi Ashley.

14 THE COURT: All right. Ms. Ashley, you are
15 certainly free to be present at the hearing today.
16 There is a default order entered against you. You
17 never responded in this matter, and I don't intend to
18 necessarily hear argument. You haven't filed a
19 motion for any sort of affirmative relief to address
20 any issues, and, again, a default order was entered
21 against you some time ago.

22 With that, Ms. Matheny, you can go ahead and make
23 your argument as it relates to your motion to stay
24 the writ of execution.

25 MS. MATHENY: Okay. Before that, Your Honor,

1 I have this to submit to the Court. I submitted a
2 request for discovery from Mr. Zittel back on
3 September 23rd.

4 THE COURT: Ms. Matheny, you don't get to hand
5 forward documents today for my consideration. The
6 Court only considers documents that are filed timely,
7 consistent with our filing requirements. This
8 hearing was set some time ago, and you've had ample
9 opportunity to provide information into the record
10 that you thought was important for my consideration.
11 I am only considering what is in the court file at
12 this time, that was timely filed. You may only refer
13 to facts that are in the record. Go ahead with your
14 argument as it relates to your motion to stay the
15 execution of the writ.

16 MS. MATHENY: Here is my copy for the Court,
17 Your Honor.

18 THE COURT: Ms. Matheny, I don't know what you
19 have for the Court. You can file whatever you want.
20 I am not considering anything that was not filed
21 timely for the purposes of our hearing today. You
22 may only refer to facts that are in the record. You
23 have ten minutes to make your argument, and we are
24 already two minutes into your ten-minute time period.

25 MS. MATHENY: Your Honor, I called the clerk's

1 office and asked if I could turn in my discovery
2 beforehand and was told explicitly that I do not,
3 that I bring it to court. So I was following what
4 they told me. I wanted to turn it in earlier, but I
5 was told I could not.

6 THE COURT: I don't know what you were or were
7 not told. I am indicating that there are filing
8 requirements. I am not considering anything that you
9 are handing forward today. You are free to file
10 whatever you want in the court file. Go ahead with
11 your argument on your motion to stay the writ of
12 execution.

13 MS. MATHENY: All right. Your Honor, I have
14 had adverse possession of the property in mention for
15 over 15 years. I have never been asked in all those
16 years to vacate anything by legal owners Dorothy,
17 Priscilla or Robert Levesque until 2013. Contract
18 one, which I believe you have a copy of, defense
19 agreement in water --

20 THE COURT: Ms. Matheny, where have you
21 submitted these facts to the record?

22 MS. MATHENY: I brought them with me, because
23 that's what I was told to do.

24 THE COURT: You cannot refer to facts that are
25 not in the record. There are no facts in the record.

26

1 And the clerks can't give you legal advice. I don't
2 know what they did or did not tell you, but I am not
3 referring to anything that's not in the record. You
4 need to confine yourself to those facts.

5 MS. MATHENY: Well, I don't know what
6 Mr. Zittel has given, so I can't talk about what's in
7 your hands.

8 THE COURT: Ms. Matheny, I'm referring to your
9 motion. Facts you have submitted to the record for
10 the purposes of your motion, that's what I can
11 consider today.

12 MS. MATHENY: Well, neither defendants, myself
13 nor Heidi Ashley, were given any notice of the
14 original court date. I couldn't respond, because,
15 obviously, I did not get service for that court date.
16 So that's what this was for today, was to actually go
17 to trial and present my evidence.

18 THE COURT: There's no trial today. This is
19 not a trial. This is a motion hearing, and so that's
20 what I'm hearing today, not a trial. It's never been
21 set for trial.

22 MS. MATHENY: Then I am making a motion to
23 reset the trial date, and the reason for it is
24 because I requested discovery from plaintiff's
25 attorney on 9-23-2013. That service has been

1 recorded with the Court. I've never received any
2 discovery or correspondence from the plaintiff's
3 attorney in any way. I also have here with me an
4 order and full explanation, and I also have proof
5 that Mr. Zittel was served.

6 THE COURT: This your opportunity, you can
7 keep going with your argument. I'm listening.

8 MS. MATHENY: Well, I can't proceed with a
9 case that I don't know what has been presented to the
10 Court. I do have a right to discovery. I know that
11 is law. And that I have to receive that within
12 11 days before the actual court date. I requested
13 that from Mr. Zittel September 23rd, and I have never
14 received anything. So it's pretty hard for me to
15 present my case when I haven't been presented any
16 documents from opposing attorney.

17 So, today, I am asking for a motion that
18 Mr. Zittel be told by the Court to present me with
19 his discovery and that we reset for another trial
20 date.

21 THE COURT: All right.

22 MS. MATHENY: Or hearing date.

23 THE COURT: Thank you. Mr. Zittel.

24 MR. ZITTEL: For the record, Your Honor, Jason
25 Zittel for the plaintiffs in this matter. There are

1 some basic uncontroverted facts I think in this
2 situation that I'd just like to go through regarding
3 the service and how this was made. There was
4 actually a service-by-mail order originally issued in
5 this case due to attempts by the defendant to avoid
6 service. That's on file. It was signed by the
7 commissioner.

8 Defendant actually lives where the motion for
9 summary judgment was mailed. Not only that, but the
10 defendant listed this address on the return mailing
11 address in a pro se answer that was delivered to my
12 office in April. And on her pro se notice of
13 appearance in another Thurston County Superior Court
14 matter filed in September of 2013, she listed this
15 same address as her notification.

16 Both of those things are documented in my
17 declaration supporting -- supporting denial of the
18 defendant's motion. And the document was both mailed
19 to this address, and it was timely filed with the
20 Court.

21 Now, the defendant's motion, as far as I can tell,
22 can most accurately be described as a CR 60 motion.
23 In a lot of ways, it bears a lot of resemblance to a
24 CR 60 motion to remove a default. But there are four
25 requirements for such a motion, and that is that

1 there is substantial evidence to support a prima
2 facie case, and that has to be -- that has to be
3 demonstrated to the Court; the moving party must
4 demonstrate that their failure to respond was based
5 on excusable neglect; the moving party must have
6 acted with due diligence after notice of the default
7 to remove the default; and that there will be no
8 substantial hardship to the opposing party.

9 The defendant in this case has filed nothing to
10 support any of these factors. And while she may
11 not -- you know, she's representing herself. It's
12 very -- she still has to comply with the rules of
13 civil procedure in this matter. And, for those
14 reasons, I'm asking you to deny this motion and also
15 to sign the real property judgment that is consistent
16 with the motion for summary judgment order that you
17 issued in August. Thank you, Your Honor.

18 THE COURT: Thank you. Ms. Matheny.

19 MS. MATHENY: Yes. I actually brought mail
20 with me from Mr. Goldenstein's office that made it to
21 my address. I also have another one here from the
22 Washington State Supreme Court. They also made it to
23 my address just fine. I receive mail there all the
24 time. And, Your Honor, I can't proceed with a case
25 that I haven't been given all the facts. I requested

1 totally legally, you have that service, I do have a
2 copy of it right here, that he was served so that I
3 would have the discovery. I have unmitigated proof
4 that the property is mine. I have title. I have
5 assessor's office copies. I have been paying the
6 taxes on the sheds. They're on my property. I have
7 the state surveyor's map that shows the sheds and
8 everything are on my property.

9 I am not willing to give away my property because
10 opposing counsel is not giving me a chance to present
11 my case. I have unmitigated proof through state and
12 federal offices saying that this property is mine.
13 And I believe that's why this was rushed through
14 without my knowledge for the first court date,
15 because they know they cannot win this case. I have
16 state and federal governments stating that it's my
17 property. They can't just take my property and say
18 that I was served.

19 So that's why I need this reset for trial date, so
20 that I can properly present my case, Your Honor.

21 MR. ZITTEL: Your Honor, may I briefly
22 respond?

23 THE COURT: Yes.

24 MR. ZITTEL: Your Honor, while the defendant
25 claims that she has not had an opportunity to

31.

1 respond, at multiple times since the motion was
2 filed, I have filed declarations in district court.
3 I have filed declarations in Superior Court on
4 related but distinct matters that included the motion
5 for summary judgment in full, and this motion has
6 been filed. She's known about it here as well in
7 this court, those documents. She's had notice of
8 everything that was in that motion for summary
9 judgment for quite some time now, and it's part of a
10 motion for CR 60. She could have responded to the
11 factual allegations contained in that motion for
12 summary judgment to establish her prima facie case if
13 she had one. She hasn't. And for those reasons, I
14 think that you should deny her motion. Thank you,
15 Your Honor.

16 THE COURT: Thank you. This matter comes
17 before the Court for two things: Ms. Matheny filed a
18 motion for stay of the writ of execution, and
19 Mr. Zittel filed on behalf of the plaintiff a request
20 for entry of judgment consistent for the order for
21 summary judgment previously entered in this matter.

22 As it relates to the request to stay the writ of
23 execution, there's been no evidence submitted that
24 would persuade the Court that it needs to stay the
25 writ of execution, and that motion is denied. I'm

1 not treating it as a CR 60 motion. I'm simply
2 treating it as a motion to stay filed by Ms. Matheny.
3 That's what she called the motion, that's the relief
4 she requested in the motion. It is appropriate for
5 the Court to enter a judgment consistent with the
6 summary judgment order previously entered in this
7 matter, and I will do so today. Ms. Matheny, if you
8 believe that you have different legal recourse, you
9 need to follow that. You need to file an appropriate
10 motion, and you need to submit your materials to the
11 record. You have not done that.

12 I recognize you represent yourself, but you are
13 held to the same standard as a lawyer. The clerk's
14 office is not there to give you legal advice. Go to
15 our website. It tells you exactly what our filing
16 requirements are. Thank you.

17 MR. ZITTEL: Your Honor, can I bring forward
18 the judgment?

19 THE COURT: Why don't you first show it to
20 Ms. Matheny, and then, yes, as I indicated, I will
21 sign that.

22 MS. MATHENY: And, obviously, I'm going to
23 appeal that judgment.

24
25 --o0o--

CERTIFICATE OF REPORTER

STATE OF WASHINGTON)

COUNTY OF THURSTON)

I, AURORA J. SHACKELL, CCR, Official
Reporter of the Superior Court of the State of
Washington, in and for the County of Thurston, do hereby
certify:

I was authorized to and did stenographically
report the foregoing proceedings held in the
above-entitled matter, as designated by Counsel to be
included in the transcript, and that the transcript is a
true and complete record of my stenographic notes.

Dated this the _____ day of March, 2014.

AURORA J. SHACKELL, RMR CRR
Official Court Reporter
CCR No. 2439

INVOLVED PARTIE'S LIST

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APPENDIX

1. Edwards v. Powell Washington State Superior court Page 7 .
2. Goettmoeller v. Powell Washington State Superior Court
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3. CR 5. Page's 3, 5, 8.
4. CR 5 (A). Page's 3, 6, 7.
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6. RCW 4. 28.080 Page 7.
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8. RCW 11.96.(A). 110 Page 6.
9. RCW 19. 40. 061. Page 6.
10. RCW 26 .50. 030 Page 8.

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re:

No. 45600-1-II

Declaration of Service

Diane Matheny

(DCLRM)

Appellant

Vs.

Levesque, Et-al.

Respondant(s).

The undersigned is now and at all times herein mentioned was a citizen of the United states and resident of the State of washington, over the age of eighteen years, not a party to or interested in the above entitled action and competent to be a witness therein.

I declare under penalty of perjury under the laws of the state of Washington that on July 18, 2014 at 13:40 am/pm, at 1800 Cooper Point Rd. Sw. Ste 8. Olympia, Washington 98502, Thurston County, Washington, I duly served documants in the above entitled matter upon

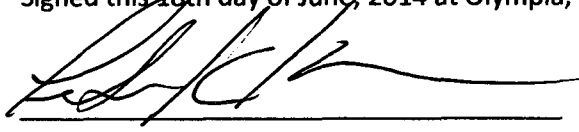
Receptionist, by then and there personally delivering a true and correct copy or copies thereof to and leaving same with Receptionist of J. Zittel.

DOCUMENTS SERVED

Appellate brief.

2014 JUL 21 PM 9:23
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JUL 21 2014

Signed this 18th day of June, 2014 at Olympia, Thurston County, Washington.

A handwritten signature in black ink, appearing to be 'Frank Knoblock', written over a horizontal line.

Signature

Frank Knoblock

83 Blach Rd. Oakville, Wa. 98568

(360)273-9442